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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/771,459 | 01/26/2001 | Rocco Pellegrinelli | 595-021PA | 6223 |

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EXAMINER

WALLACE, SCOTT A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2671

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,459

Applicant(s)

PELLEGRINELLI ET AL.

Examiner

Scott Wallace

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-56 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53 is/are allowed.
- 6) ☒ Claim(s) 25-27,30,32,33,44,52 and 54-56 is/are rejected.
- 7) ☒ Claim(s) 28-29,31,34-43 and 45-51 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 32 recites the limitation "plurality of data vendors". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 25-27, 30, 33, 44, 52, 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Risberg et al., U.S. Patent No. 5,339,392.
3. As per claims 25, 52, Risberg et al discloses a method of distributing performance data concerning a plurality of subjects from a distribution site to a user site (abstract), the method comprising: on request from the user (abstract), providing a stream of historical data from the blocks in the database such that a ticker tape of a plurality of graphical historical data charts can be displayed at the user's site, automatically and without user interaction (abstract). However, Risberg et al does not specifically disclose storing gathered performance data concerning each of the subjects in a central database, wherein the

storing step comprises storing the gathered data to form a contiguous sequential block of historical data for each subject. This would have been obvious to one of ordinary skill in the art at the time the invention was made because Risberg et al discloses displaying historical data received over a network. Therefore the data is stored in a database at another computer and because it is a history it is stored sequentially by dates.

4. As per claim 26, Risberg et al discloses wherein the stream of historical data is provided as a stream of graphical data (abstract).

5. As per claim 27, it would have been obvious to one of ordinary skill in the art at the time the invention was wherein a rate of generation of the graphical historical data charts corresponds to the speed of movement of the ticker tape displayed at the user's site because the ticker tape can only display a certain amount of information at a time and as it needs new information it generates it to display it at the speed of the ticker tape.

6. As per claim 30, Risberg et al discloses further comprising gathering performance data at a central site and subsequently updating the distribution site with the gathered data (column 2 lines 39-55).

7. As per claim 33, Risberg et al discloses wherein the providing step is initiated by a data request from a user (abstract).

8. As per claim 44, Risberg et al discloses wherein the storing step is carried out on a daily basis (column 2 lines 39-55).

9. As per claim 54, Risberg et al discloses a graphical user interface comprising: processing means for obtaining updated information from a distribution database regarding a plurality of subjects and processing the obtained information to display a moving set of graphical images, each image representing current performance data and historical data for a given subject (abstract); and selecting means for creating a user selection, the selecting means being arranged to configure the processing means to obtain information for a selection of the plurality of subjects stored in the distribution database (column 1 lines 35-67). However, Risberg et al does not specifically disclose using a distribution database. This would have been obvious to one of ordinary skill in the art at the time the invention was made because Risberg et al discloses displaying historical data received over a network. Therefore the

data is stored in a database at another computer and because it is a history it is stored sequentially by dates.

10.

11. As per claim 55, Risberg et al discloses further comprising selection means, operable by the user, for selecting a time period of historical data, smaller than that stored in the distribution database for a given subject, which is to be displayed in the set of graphical images (column 1 lines 34-67).

12. As per claim 56, Risberg et al discloses further comprising control means, operable by the user, for altering the movement of the set of graphical images (column 1 lines 34-67).

Allowable Subject Matter

13. Claims 28-29, 31, 34-43, 45-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claim 53 is allowed. The prior art of reference fails to teach having icons representing the current performance data and historical data.

15. Claim 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Scott Wallace** whose telephone number is **703-605-5163**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mark Zimmerman**, can be reached at 703-305-9798.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



MARK ZIMMERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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